

Bureau of Alcohol, Tobacco and Firearms, Treasury

§ 70.82

(d) Upon the filing of a bond in accordance with this section, the collection of so much of the assessment as is covered by the bond will be stayed. The taxpayer may at any time waive the stay of collection of the whole or of any part of the amount covered by the bond. If as a result of such waiver any part of the amount covered by the bond is paid, or if any portion of the jeopardy assessment is abated by the regional director (compliance) or the Chief, Tax Processing Center, then the bond shall (at the request of the taxpayer) be proportionately reduced.

(26 U.S.C. 6863)

[T.D. ATF-301, 55 FR 47613, Nov. 14, 1990]

§ 70.77 Collection of jeopardy assessment; stay of sale of seized property pending court decision.

(a) *General rule.* In the case of an assessment under 26 U.S.C. 6862, and property seized for the collection of such assessment shall not (except as provided in paragraph (b) of this section) be sold until the latest of the following occurs:

(1) The period provided in 26 U.S.C. 7429(a)(2) to request the regional director (compliance) or Chief, Tax Processing Center to review the action taken expires.

(2) The period provided in 26 U.S.C. 7429(b)(1) to file an action in U.S. District Court expires if a request for redetermination is made to the regional director (compliance) or Chief, Tax Processing Center.

(3) The U.S. District Court judgment in such action becomes final, if a civil action is begun in accordance with 26 U.S.C. 7429(b).

(b) *Exceptions.* Notwithstanding the provisions of paragraph (a) of this section, any property seized may be sold:

(1) If the taxpayer files with the regional director(s) (compliance) or the Chief, Tax Processing Center a written consent to the sale, or

(2) If the regional director(s) (compliance) or the Chief, Tax Processing Center determines that the expenses of conservation and maintenance of the property will greatly reduce the net proceeds from the sale of such property, or

(3) If the property is of a type to which 26 U.S.C. 6336 (relating to sale of perishable goods) is applicable.

(26 U.S.C. 6863)

[T.D. ATF-301, 55 FR 47613, Nov. 14, 1990, as amended by T.D. ATF-353, 59 FR 2522, Jan. 18, 1994]

NOTICE AND DEMAND

§ 70.81 Notice and demand for tax.

(a) *General rule.* Where it is not otherwise provided by provisions of 26 U.S.C. enforced and administered by the Bureau, the regional director (compliance) or the Chief, Tax Processing Center shall, after the making of an assessment of a tax pursuant to § 70.71 of this part, give notice to each person liable for the unpaid tax, stating the basis for the tax due, the amount of tax, interest, additional amounts, additions to the tax and assessable penalties, and demanding payment thereof. Such notice shall be given as soon as possible and within 60 days. However, the failure to give notice within 60 days does not invalidate the notice. Such notice shall be left at the dwelling or usual place of business of such person, or shall be sent by mail to such person's last known address.

(b) *Assessment prior to last date for payment.* If any tax is assessed prior to the last date prescribed for payment of such tax, demand that such tax be paid will not be made before such last date, except where it is believed collection would be jeopardized by delay.

(26 U.S.C. 6303 and 7521)

[T.D. ATF-301, 55 FR 47613, Nov. 14, 1990]

§ 70.82 Payment on notice and demand.

Upon receipt of notice and demand from the regional director (compliance) or the Chief, Tax Processing Center, there shall be paid at the place and time stated in such notice the amount of any tax (including any interest, additional amounts, additions to the tax, and assessable penalties) stated in such notice and demand.

(26 U.S.C. 6155)

[T.D. ATF-301, 55 FR 47613, Nov. 14, 1990]

INTEREST

§ 70.90 Interest on underpayments.

(a) *General rule.* Interest at the underpayment rate referred to in § 70.93 of this part shall be paid on any unpaid amount of tax from the last date prescribed for payment of the tax (determined without regard to any extension of time for payment) to the date on which payment is received.

(b) *Interest on penalties, additional amounts, or additions to the tax—* (1) *General.* Interest shall be imposed on any assessable penalty, additional amount, or addition to the tax (other than an addition to tax imposed under section 6651(a)(1) of the Internal Revenue Code) only if such assessable penalty, additional amount, or addition to the tax is not paid within 10 days from the date of notice and demand therefor, and in such case interest shall be imposed only for the period from the date of the notice and demand to the date of payment.

(2) *Interest on certain additions to tax.* Interest shall be imposed under this section on any addition to tax imposed by section 6651(a)(1) of the Internal Revenue Code for the period which (i) begins on the date on which the return of the tax with respect to which such addition to tax is imposed is required to be filed (including any extensions), and (ii) ends on the date of payment of such addition to tax.

(c) *Payments made within 10 days after notice and demand.* If notice and demand is made for payment of any amount, and if such amount is paid within 10 days after the date of such notice and demand, interest under this section on the amount so paid shall not be imposed for the period after the date of such notice and demand.

(d) *Satisfaction by credits.* If any portion of a tax is satisfied by credit of an overpayment, then no interest shall be imposed under section 6601 of the Internal Revenue Code on the portion of the tax so satisfied for any period during which, if the credit had not been made, interest would have been allowable with respect to such overpayment.

(e) *Last date prescribed for payment.* (1) In determining the last date prescribed for payment, any extension of time granted for payment of tax shall be dis-

regarded. The granting of an extension of time for the payment of tax does not relieve the taxpayer from liability for the payment of interest thereon during the period of the extension. Thus, except as provided in paragraph (d) of this section, interest at the underpayment rate referred to in § 70.93 of this part is payable on any unpaid portion of the tax for the period during which such portion remains unpaid by reason of an extension of time for the payment thereof.

(2) In the case of taxes payable by stamp and in all other cases where the last date for payment of the tax is not otherwise prescribed, such last date for the purpose of the interest computation shall be deemed to be the date on which the liability for the tax arose. However, such last date shall in no event be later than the date of issuance of a notice and demand for the tax.

(26 U.S.C. 6601)

[T.D. ATF-251, 52 FR 19314, May 22, 1987, as amended by T.D. ATF-301, 55 FR 47613, Nov. 14, 1990]

§ 70.91 Interest on erroneous refund recoverable by suit.

Any portion of an internal revenue tax (or any interest, assessable penalty, additional amount, or addition to tax) which has been erroneously refunded, and which is recoverable by a civil action pursuant to 26 U.S.C. 7405, shall bear interest at the underpayment rate referred to in § 70.93 of this part.

(26 U.S.C. 6602)

[T.D. ATF-301, 55 FR 47614, Nov. 14, 1990]

§ 70.92 Interest on overpayments.

(a) *General rule.* Except as otherwise provided, interest shall be allowed on any overpayment of any tax at the overpayment rate referred to in § 70.93 of this part from the date of overpayment of the tax.

(b) *Date of overpayment.* Except as provided in section 6401(a) of the Internal Revenue Code, relating to assessment and collection after the expiration of the applicable period of limitation, there can be no overpayment of tax until the entire tax liability has been satisfied. Therefore, the dates of overpayment of any tax are the date of